

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

AL HOLIFIELD,

Plaintiff,

v.

Case No. 18-cv-801-pp

GEARLD KULWICH, *et al.*,

Defendants.

**DECISION AND ORDER DENYING AS MOOT PLAINTIFF'S MOTION TO USE
RELEASE FUNDS (DKT. NO. 8) AND REQUIRING THE PLAINTIFF TO PAY
THE INITIAL PARTIAL FILING FEE, OR EXPLAIN WHY HE CANNOT DO SO,
BY THE END OF THE DAY ON AUGUST 3, 2018, OR FACE DISMISSAL OF
HIS CASE**

Plaintiff Al Holifield, who is representing himself, filed a complaint, dkt. no. 1, along with a motion for leave to proceed without prepayment of the filing fee, dkt. no. 2. Regarding the motion to proceed without prepaying of the filing fee, the court ordered that by June 27, 2018, the plaintiff was to forward to the Clerk of Court \$5.43 as an initial partial filing fee. Dkt. No. 7. The court advised the plaintiff that, once it received this fee, it would determine whether the case can proceed without prepayment of the filing fee. Over three weeks have passed since the deadline the court set, and the court has not received the partial filing fee.

On June 18, 2018, the court received from the plaintiff filed a motion, asking the court to order the institution where he was in custody to allow him to use release funds to pay his initial partial filing fee. Dkt No. 8. A little over

three weeks later, however, the court received a notice from the plaintiff, indicating that he had been released from custody; he provided the court with his new address in Milwaukee. Dkt. No. 9. Because the defendant is no longer in custody, the court will deny as moot his motion to use release funds to pay his initial partial filing fee.

Before dismissing this case for failure to pay the initial fee, the court must determine whether the prisoner is at fault for the non-payment. See Thomas v. Butts, 745 F.3d 309, 312-13 (7th Cir. 2014). It is possible that, in the process of being released from custody, the plaintiff misplaced the court's order regarding the initial partial filing fee, or forgot the deadline.

The court will give the plaintiff additional time to either pay the initial partial filing fee of \$5.43 or explain to the court why he is unable to do so. If, however, the court does not receive either the initial partial filing fee, or an explanation of why the plaintiff can't pay it, by the deadline the court sets below, the court will dismiss the plaintiff's case for failure to comply with the court's order.

The court also notes that the plaintiff has two cases pending in this court—this one, and Case No. 18-cv-807. The plaintiff owes an initial partial filing fee of \$5.43 for *each of these cases*, for a total of \$10.86. The law requires plaintiffs to pay a separate filing fee for each complaint they file.

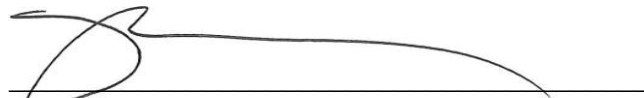
The court **ORDERS** that the plaintiff's motion to use release funds to pay initial partial filing fee is **DENIED as moot**. Dkt. No. 8.

The court **ORDERS** that the plaintiff must either pay the initial partial filing fee of \$5.43, or file a written document explaining to the court why he cannot do so, in time for the court to receive it by the end of the day on **Friday, August 3, 2018**. The plaintiff may make the payment by bringing cash to the clerk's office at 517 East Wisconsin Avenue, Room 362, Milwaukee, Wisconsin between the hours of 8:30 a.m. and 4:30 p.m. He may pay by check, money order or cashier's check; the check should be made out to Clerk, U.S. District Court. If he wants to mail the check, he should mail it to Clerk's Office, 517 East Wisconsin Avenue, Room 362, Milwaukee, Wisconsin 53202. He may pay by credit card over the phone, by calling 414-297-3372 and asking for the cashier. If the plaintiff mails the check, or mails the court a letter explaining why he cannot pay the initial partial filing fee, he must mail the envelope in time for the court to receive it by the end of the day on August 3, 2018.

If the court does not receive the money or the written document by the deadline above, the court will dismiss the case without prejudice based on the plaintiff's failure to pay the initial partial filing fee.

Dated in Milwaukee, Wisconsin this 20th day of July, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge